

U.S. Department of Labor

Office of Administrative Law Judges
36 E. 7th St., Suite 2525
Cincinnati, Ohio 45202

(513) 684-3252
(513) 684-6108 (FAX)



Issue Date: 17 December 2004

Case No. 2004-LCA-29

In the Matter of

U.S. DEPARTMENT OF LABOR
ADMINISTRATOR, WAGE AND HOUR DIVISION

Prosecuting Party

v.

MARVA COLLINS PREPARATORY SCHOOL, INC.

Respondent

BEFORE: RUDOLF L. JANSEN
Administrative Law Judge

DECISION AND ORDER APROVING SETTLEMENT AGREEMENT

This proceeding arises under the Immigration and Nationality Act of 1952 P.L. 82-414, 66 Stat. 163, as amended by the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978, and the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, P.L. 102-232, 105 Stat. 1733 and the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) (Title IV of Pub. L. 105-277, Oct. 21, 1998; 112 Stat. 2681) at 8 U.S.C. § 1101, et seq. ("INA") and 8 U.S.C. 1101(a)(15)(H)(i)(b). Jurisdiction over these proceedings is vested in the Office of Administrative Law Judges by INA § 212(n), 8 U.S.C. § 1182(n), and 20 C.F.R. Part 655.800 et seq. with respect to Marva Collins' request for a hearing involving alleged violations of the provisions of § 1182(n) of the Act.

On October 25, 2004, Mary L. Bradley, counsel for the Prosecuting Party, submitted s Settlement Agreement and Consent Findings. The document was signed by Cleaster Whitehurst-Mims on behalf of the Respondent and Ms. Bradley on behalf of the Prosecuting Party. Ms. Whitehurst-Mims represents that she has

the authority to sign the Settlement Agreement and Consent Findings on behalf of Marva Collins Preparatory School, Inc.

The issues resolved by the Settlement Agreement were identified initially during an investigation conducted by the Prosecuting Party covering the years March 1, 2001 to May 31, 2003 with respect to Marva Collins' petitioning for and employing H-1B non-immigrants including but not limited to, the period encompassing March 1, 2001 through May 31, 2003. On April 15, 2004, the Administrator's representative issued a Determination Letter detailing its findings. On April 26, 2004, within the time period provided by 20 C.F.R. § 655.820, Respondent filed a request for Hearing contesting the findings contained in the Determination Letter.

By way of the Settlement Agreement, Respondent agrees to pay in full and complete settlement of all monetary issues raised in the Administrator's Determination Letter, the sum of \$5,472.71 representing an agreed amount of back wages. The provisions of the Settlement Agreement relative to the payment of back wages was satisfied as of September 23, 2004, as Respondent has delivered to the H-1B non-immigrants, all back wage payments free and clear, within the meaning of 29 C.F.R. § 531.35.

The Settlement Agreement resolves all issues raised by the Administrator's Determination Letter with respect to Respondent, and Respondent further agrees to comply with the provisions of the INA and the applicable regulations in the future with respect to its petitioning for and employing H-1B non-immigrants.

Each party agrees to bear its own costs, attorney's fees and other expenses incurred in connection with any stage of this proceeding including any costs referenced under the Equal Access to Justice Act, as amended.

The Rules of Practice and Procedure for Administrative Hearings for the Office of Administrative Law Judges found at 29 C.F.R. Part 18 are applicable to this proceeding. 20 C.F.R. §655.825(a).

ORDER

Upon a review of the record, the Settlement Agreement and Consent Findings are formally approved. IT IS ORDERED that:

1. This Order shall have the same force and effect as an Order made after full hearing;
2. The entire record upon which this Order is based shall consist solely of the Administrator's Determination Letter and the Settlement Agreement executed by the parties;
3. Any further procedural steps before this office are waived; and
4. Any rights to challenge or contest the validity of this Order entered into in accordance with this agreement are hereby waived.

IT IS FURTHER ORDERED that this matter is hereby dismissed with prejudice.

A

Rudolf L. Jansen
Administrative Law Judge